

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PREFERRED DRUG LIST FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MEDICAL ASSISTANCE PROGRAMS; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ADOPT SPECIFIC ADMINISTRATIVE RULES FOR STANDARDS, PUBLIC COMMENT, AND APPEALS; PROVIDING FOR A PRESCRIPTION DRUG REVIEW ADVISORY COMMITTEE; PROVIDING FOR AN EXCEPTION TO THE PREFERRED DRUG LIST IF THE LICENSED PRESCRIBER SPECIFICALLY DESIGNATES A DRUG AND FOR DRUGS FOR THE TREATMENT OF A MENTAL DISORDER; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Preferred drug list -- rulemaking authority -- prescription drug review advisory committee -- exceptions to list. (1) If the department undertakes a cost containment measure under this chapter that involves a preferred drug list, the department shall adopt administrative rules relating to the preferred drug list before the list may be implemented.

(2) The rules must include:

(a) standards for placing or not placing a drug on the preferred drug list based on sound clinical evidence found in labeling, drug compendia, and peer-reviewed clinical literature pertaining to the use of the drug in the medicaid fee-for-service population;

(b) an adequate time to hear all public comment from all interested stakeholders before each drug class is reviewed and prior to the department determination to place or not place a drug on the preferred drug list;

(c) an appeal process for a person who is affected by a decision of the department to place or not to place a drug on the preferred drug list;

(d) a provision specifying that the department shall provide coverage for a drug that is not on a preferred drug list without requiring additional medical justification or contact if a physician documents on the prescription that the drug as prescribed is medically necessary for the patient by writing on the prescription the phrase "dispense as written", "medically necessary", or other similar wording;

1 (e) a 30-day prior notification of drug classes to be reviewed; and

2 (f) a provision that any meeting or public hearing on a drug under consideration for a preferred drug list
3 be electronically recorded.

4 (3) Subject to Title 18, chapter 4, the department may contract for the services necessary to assist the
5 department in developing a preferred drug list.

6 (4) The director shall appoint a prescription drug review advisory committee consisting of:

7 (a) at least four members who are licensed pharmacists under Title 37, chapter 7, with expertise in
8 serving the medicaid fee-for-service population;

9 (b) at least four members who are licensed to practice medicine under Title 37, chapter 3, with expertise
10 in serving the medicaid fee-for-service population;

11 (c) at least one member who represents the patient advocacy community; and

12 (d) one member from the pharmaceutical industry.

13 (5) The duties of the prescription drug review advisory committee include:

14 (a) conducting the public meetings on developing a preferred drug list;

15 (b) assisting the department on setting standards in rule for the review and selection of drugs for a
16 preferred drug list; and

17 (c) reviewing each drug and making recommendations to the department as to whether the drug should
18 be on a preferred drug list.

19 (6) The clinical basis for recommendations regarding a list of preferred drugs must be evident in a
20 written report that is available to the public. If the decision of the committee is contrary to the clinical evidence
21 found in labeling, drug compendia, or peer-reviewed literature, the recommendation must be justified in writing
22 in the report.

23 (7) A committee member appointed under subsection (4) serves without compensation but is entitled
24 to reimbursement for meals, lodging, and transportation as provided in 2-18-501 through 2-18-503. The
25 committee shall select a presiding officer from among its membership who may be removed from the position
26 only by a majority vote of the full committee.

27 (8) Notwithstanding the establishment of a preferred drug list or any other cost-containment measure
28 or policy enacted by the department, the department shall provide coverage for a drug if the licensed prescriber
29 writes on the prescription "dispense as written", "medically necessary", or other similar wording without any
30 additional medical justification being required.

(9) The department may not prohibit or otherwise limit a recipient of medical assistance under Title 53, chapter 6, from having unrestricted access to drugs prescribed for the recipient for the treatment of a mental disorder, as defined in 53-21-102.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 1].

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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